

DATE: April 7, 2004

FILE REF: NR 116

TO: Natural Resources Board

FROM: Scott Hassett

SUBJECT: Adoption of Natural Resources Board Order WT-39-03

BACKGROUND AND REASONS FOR RULE PROPOSAL

At the request of the Joint Committee for the Review of Administrative Rules, the department is proposing to amend Ch. NR 116, Wis. Admin. Code, to define the term "deck" and to provide that a deck may be added to a nonconforming building or a building with a nonconforming use.

SUMMARY

While Ch. NR 116 has always permitted the addition of decks to nonconforming structures, the term deck is not currently defined, but has been treated as a structure under ch. NR 116. If the deck is added to an existing structure, it is treated as a structural addition to a structure. This rule revision would define deck for the first time and would specifically address how decks are regulated under ch. NR 116.

HOW DO THE RULES AFFECT EXISTING POLICY

NRB Order WT-39-03 clarifies existing policy on the construction of decks. While decks have always been permitted in floodplain areas if specific criteria could be met, this order would define what a "deck" is and would provide that any deck which is 200 square feet or smaller in size and that is adjacent to a principal structure would not be considered an extension, modification or addition. This is a change from current policy which treats all decks as an extension, modification or addition.

PAST BOARD ACTIONS

The Natural Resources Board has not previously adopted regulations specific to the construction of decks.

DEVELOPMENT OF RULE PROPOSAL

Department staff Gary Heinrichs and Thomas Steidl developed this proposal.

HEARING COMMENTS

The Department held a public hearing in Madison with a video link to the LaCrosse office. There were 15 public appearances in LaCrosse and none in Madison. A number of people spoke in support of the rule change and the Department received 69 written comments in support. All of the respondents requested that roofs be permitted on decks to provide safe ingress and egress to the principal structure and that stairways or landings should be allowed. In response to the comments, the proposed rule was modified to allow roof overhangs in order to provide safe ingress and egress. Stairways and landings are already allowed.

AFFECTED PARTIES

This revision will primarily impact the owners of property in floodplain areas and local zoning officials who regulate these areas.

REGULATORY FLEXIBILITY ANALYSIS

No additional compliance or reporting requirements will be imposed as a result of these rule changes. A state fiscal estimate is attached.

ENVIRONMENTAL ASSESSMENT

This is a Type III action under Chapter NR 150, Wis. Admin. Code, therefore no EA is required.